and it also stated that further enquiry was being made in to the circumstances which led up to his suspension, and after the 2nd enquiry the period of his suspension was fixed and that also was communicated to him through the inspecting officer.

Mr. E. Ikkanda Warriar (*Urakam*).—May I have a copy of that order?

Rao Sahib I. N. Menon (*Director of Public Instruction*)—Certainly you can have it. But I have not got it now.

Mr. E. Ikkanda Warriar (*Urakam*).—Sir, in the light of what has been told to me by the Hon'ble Member for Education, I find that I am misinformed and I do not therefore press this motion.

Motion was by leave withdrawn.

(iv) re. the banning of "Malayalee" and "Bharathapatrika".

Mr. President.—There is another motion by Mr. Warriar *"to discuss the action of the Government in banning two Malayalam papers the "Malayalee" and the "Bharthapatrika" from the State"*.

Mr. K. P. Kannan Nayar (*Secretary to Government*).—I rise to oppose this motion.

The banning of these papers was done by means of a Proclamation issued by His Highness the Maharaja under His prerogative powers. I think that even without my statement it is known that in discussing the propriety or otherwise of this measure the conduct of His Highness the Maharaja will have to be brought into discussion. It will be otherwise impossible to discuss this matter. Under Rule 25 clause 3 it is definitely laid down that a Member while speaking must not reflect upon the conduct of His Highness the Maharaja or His Majesty the King Emperor or the Ruler of any foreign State. My respectful submission is that without infringement of that rule it would be impossible to discuss this matter at all. If that is so, I submit that the motion is not in order. This Proclamation is not like the Proclamations issued bringing into force laws which are in force in British India. There is the practice of enacting laws existing outside the State by means of His Highess' Proclamation. There is also in emergent cases provision under Section 15 of the Legislative Council Act for His Highness to issue an Act. This matter is not of that

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nature. This is a peculiar Proclamation of His Highness. His Highness has thought fit to prescribe two newspapers from entering into the State and His Highness has been pleased to issue a proclamation to that effect. I submit it is not open to the House without bringing in question the conduct of His Highness to discuss this matter. Such a discussion is not permitted by the provisions of the Act. So I submit that the motion is not in order.

* **Dr. A. R. Menon** *(Pallippuram).*—The object of this motion is not to criticise the action of His Highness the Maharaja. In a constitutional system of Government the responsibility for every action of the Ruler rests upon the chief executive. We are holding the minister responsible, not His Highness the Maharaja. That is one. Secondly, the criticism is that in tendering advice to His Highness have you not the courage to take this matter into your own hands? You are hiding behind the throne for an unpopular measure like this. Such people are more disloyal than we are. We wanted to show our loyalty and the tendency on the part of the Government when they wanted to pass an unpopular measure. I submit, Sir, it is against principle, it is against the principle of loyalty, that His Highness' name should be dragged in when you want to pass a measure to stifle public criticism. We are to criticise your action. We are not coming to please you. We have a certain duty. We have got a certain duty and in the performance of that duty, it is essential that there is a free press. You are stifling that discussion and you are bringing His Highness' name for passing this retrograde measure. I think, Sir, there is a sufficient case for us to discuss without dragging in His Highness' name, because there is no necessity to throw any reflection on him as he has done this on the advice of his ministers and therefore the responsibility rests with his ministers.

Mr. E. Ikkanda Warriar *(Urakam).*— I have not much to add. Sir, there is no law or rule that I know of which lays down that a Proclamation issued by His Highness the Maharaja even though it be under His Highness' prerogative right should not be discussed in this Council. The only objection that was raised by the Hon'ble Secretary to the Government is that in discussing the subject we may have to refer to His Highness' action. I submit that any discussion in this Council is controlled by the Chair and whenever we infringe any of the rules, the Chair will call us to order. There is no fear on that

* Speech not corrected by the Hon'ble Member.

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ground. On the other hand I respectfully submit that in opposing the motion the Government Officers are taking shelter under the name of His Highness the Maharaja. Our object is only to criticise the advice given to His Highness on such an obnoxious legislation as this. I therefore submit that it is entirely in order. Similar questions have been discussed before on the floor of this House. For example the Proclamation relating to the arecanut trade, the Proclamation relating to the moratorium, these and several other Proclamations have been discussed in this Council.

Mr. P. Kumaran Ezhuthassan *(Wadakkancheri).*—Mr. President. Though the Proclamation was issued under the prerogative rights of His Highness, the moment it is issued, it becomes an action of the Government and every action of the Government we have got every right to criticise. We are in a way invited to do that wholesome work and therefore we will never be infringing any one of the provisions of the rules and regulation of the Council or any other fundamental rights of the ruler in discussing this motion. The position clear and simple.

Mr. K. M. Ibrahim *(Cranganur).*—I would also like to add one word. It is an everyday occurrence that whenever this Council is in session we may have ever so many items of business regarding the passing of a certain bill by His Highness. Why the Sign Manual was not given to a particular bill that was passed by this House was freely allowed to be discussed in this Council. The mere fact that His Highness' name is there is not a bar. I submit that this motion may be allowed to be discussed.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I wish to add another ground of objection to this motion. I cannot understand how the fact that two newspapers that are being published at Trivandrum were banned from circulation a few weeks ago would be a matter of such urgent importance as to require or justify the suspension of the business of this House to debate that unfortunate fact. The Proclamation was necessitated by the campaign for a long time of these two newspapers of calumny and sedition. Government have been putting up with that for long and finding that nothing else could be done to prevent the mischief that was freely done by these newspapers, Government prevented the entry of these newspapers into Cochin. I can understand the importance of such a thing as a necessity to prevent an impending fire or to investigate the reasons of the fire with a view to prevent a

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repetition of that reason. I submit that it can never be a matter of urgent public importance.

Mr. K. T. Mathew *(Kunnamkulam)*.—Sir, I am surprised to hear that the Government has not clearly understood what the public importance of this matter is. We the representatives of the people are here not only to safeguard our rights, but also the rights of the people of the State and also to safeguard the interests and the welbeing of the whole citizens in the State. Having understood that we have such a responsibility, I fail to understand how the Hon'ble Member for Law has advanced such an argument. It is a matter of real importance to the citizens of the State to have the right to decide for themselves as to which paper they should read or which paper they should not. They want to preserve the right to decide for themselves which paper they should read. Now that liberty has been curtailed. Secondly, Sir, what will be reciprocative effect of this. That is another important thing which the Hon'ble Members of this House have to point out. As a matter of fact any one who reads the papers in Travancore and Cochin can very well understand what is the effect of this order. It is the duty of this Council especially of the non-officials to bring to the attention of the Government the seriousness of the situation resulting from this order. We have been sufficiently long in this House to know that we cannot criticise the merits or demerits of the action taken by His Highness without taking the advice of the Diwan. We want to point out that in this matter the Diwan must have advised His Highness. He had the duty to do so. Such being the case, the executive should not take protection under the name of His Highness. We are as anxious to maintain the prestige of His Highness as the Hon'ble Members on the other side are.

Mr. P. Govinda Menon *(Adoor)*.—The legal objection raised by the Hon'ble Member has been sufficiently met by the Hon'ble Government Advocate, because he was trying to make out that the Government was justified in issuing this Proclamation. We question the reasons which actuated Government in issuing this Proclamation.

Mr. E. Ikkanda Warriar *(Urakam)*.—As regards the importance and the urgency of the motion, I wish to add only one word to what has been said by the Hon'ble Members who spoke before me and it is this. There are certain provisions in the Proclamation, certain obnoxious provisions which infringe upon the civil rights of every citizen or subject.

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They are (1) the right given to a Police Officer not below the rank of a Head Constable to search every house suspected to contain a copy of the Malayalee paper. He need not obtain the sanction of a Magistrate.

Mr. President.—That is going into the merits of the question.

Mr. E. Ikkanda Warriar *(Urakam).*—I want to show the urgency in this way. It contains certain obnoxious provisions which affect the fundamental rights of every citizen apart from the deprivation of his right to choose the paper that he wants to read. The Police officer need not even take the orders of a Magistrate before he goes to any house to conduct a search. On the pretext of mere suspicion he can invade the privacy of any house. This is the impending danger, the abuse of power that is conferred on these small Police officers that we apprehend. Since the Chair has very correctly drawn the attention of the Hon'ble Member not to speak on the merits, I don't wish to speak upon the merits at this stage. I therefore hold that this is a most important and urgent matter and request that the motion may be allowed.

Mr. President.—To save further discussion, I must say at the very outset that I am prepared to concede that the subject-matter of the motion is certainly an urgent matter as contemplated by the rule relating to adjournment motions. There can be no doubt that the action in banning a newspaper from entry into the State is a matter of public importance. But then it is for the Chair to decide the admissibility of a motion from the point of view of the Legislative Council Act and the rules and Standing Orders. It is quite possible that a strict interpretation of these rules and Standing Orders may lead to results which are not satisfactory. But that cannot be helped so long as these rules and standing Orders remain as part of our statutory law. I fully realise that in a country where the Ruler is a constitutional Ruler in the strict sense of the term, every action of the Ruler is the action which is supposed to have been taken on the advice of his ministers. It is upon the applicability of this doctrine that it is said that the king can do no wrong, because every action of the king is supposed to have been done on the advice of his ministers. We can always hold the minister responsible for any action of the king. The point that we have to decide is whether in Cochin State that constitutional theory is applicable either in law or in practice. Now, if that constitutional theory is applicable either in law or practice, then His

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Highness as the Ruler of this State must have declared that he will not do any act without the advice and consent of his ministers, and so far as I know, the Ruler of this State has not made that declaration either by means of a Proclamation or by means of a Legislative Council Act. On the other hand, the existence of this very rule-No. 25-relating to prohibition on the reflection of the conduct of His Highness the Maharaja is a clear indication that the Ruler of this State does not subscribe to the applicability of that doctrine to the State. Such being the case, we cannot get away from this fact that so long as the Ruler has not proclaimed that he is always bound by the advice of his ministers, you cannot for every action of the Ruler hold the minister responsible. Though in particular cases advice might have been taken, you cannot on general principle say that for every action of His Highness the Maharaja it is the minister that he is to be held responsible. Where the Maharaja has not imposed, his minister cannot undertake upon himself such a responsibility. Therefore, we have to decide the admissibility of such questions not with reference to abstract constitutional principles or constitutional practices that prevail in other countries, but with reference to the constitutional law in this State and with reference to established rules and Standing Orders which are here before us. We cannot get away from this fact that it is quite possible that His Highness might have issued this Proclamation either of his own accord or upon the advice of his minister. But the fact nevertheless remains that it is a Proclamation for which His Highness has taken full responsibility. That being so, the merits of the Proclamation cannot be questioned or discussed without questioning the conduct of author of the Proclamation. Therefore, any discussion of this motion will clearly infringe rule 25. I therefore disallow it.

Motion was ruled out of order.

The House rose for lunch at 1-30 p. m. and re-assembled at 2-45 p. m. with M. R. Ry., P. C. Varkey, Avl., (Panel Chairman) in the Chair.

Announcement of Bills and Amendment to Standing Orders Assented to and disallowed by H. H. the Maharaja.

Secretary to the Council.—Under S. O. No. 5 (2) of the Council I have to announce to the Council that the following

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